IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12696 of 2004

Between:

1. Marella Venkateswara Rao, S/o Anjaneyulu,
   R/o Door No.25-1-2, Sambhunipet, Palakol, W.G.District
2. Mandela Veeraswamy, S/o Jagannatha Rao,
   R/o D.No.25-1-14, Sambhunipet, Palakol, West Godavari District
3. Shaik Ali Basha, S/o Ghouse Miaya,
   R/o D.No.25-2-2, Sambhunipet, Palakol, West Godavari District

..... PETITIONERS

AND

1. The Deputy Superintendent of Police, Narayanapuram, Sambhunipet, Palakol.
2. The Inspector of Police, Palakol.
3. Sir Likhithapudi Moses, S/o Sudhakara Rao,
   R/o 22nd Ward, Sambhunipet, Palakol.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, particularly one in the nature of a Writ of Mandamus, declaring the inaction on the part of the respondent Nos.1 and 2 as illegal and ultravires to the provisions of Articles 14 and 21 of the Constitution of India directing the respondent Nos.1 and 2 to take appropriate action against the respondent No.3 for creating noise pollution in the area viz.22nd Ward, Shambhunipet, Palakol, West Godavari District.

Counsel for the Petitioner:MR.V.S.R.ANJANEYALU

Counsel for the Respondent Nos.1 and 2: GP FOR HOME

The Court made the following :

ORDER:

This writ petition is filed seeking a declaration that the alleged inaction on the part of the respondents 1 and 2 in taking steps against the third respondent for creating noise pollution in the area is arbitrary and illegal.

The petitioners claim to be the residents of 22nd ward, Shambunipet, Palkol, West Godavari District. It is stated that they have constructed their residential houses by spending huge amounts in the locality and have been living in a most respectable manner in a harmonious atmosphere. While so, the third respondent, who owns a vacant site in T.S.Nos. 188 and 875/4 of R.S.No.131/4, which is located in the northern side of the petitioners' colony, with an intent to construct a Church in the said open site, started conducting prayers by arranging a temporary construction. The petitioners state that there is already a big Church at a distance of 300 feet from that locality and that there are also four small churches in the locality within a radius of about 300 feet, and that the Church proposed to be constructed by the third respondent is in the midst of the residential locality and the layout was not approved by the Director of Town and Country Planning. Since the third respondent started conducting prayers by arranging mikes throughout day and night indiscriminately, noise pollution being created is unbearable. It is alleged that the third respondent, with a view to harass the petitioners, started conducting prayers indiscriminately using mikes. It is also alleged that the third respondent did not obtain any permission from the second respondent before arranging the religious prayers. In the circumstances, the petitioners made a representation dated 04.07.2004 requesting the second respondent to take appropriate action against the third respondent and to prevent him from using mikes in the residential locality. The grievance of the petitioners is that the respondents 1 and 2, though received their representations and promised that they would look into the matter, failed to take any action. Hence this writ petition.

On behalf of the respondents 1 and 2, the Inspector of Police, Palakol Circle, West Godavari District filed counter-affidavit stating that the allegation of the petitioners

that the third respondent is making temporary constructions and conducting prayers is not true and that there are no temporary constructions in the said site. The further allegation that the third respondent started conducting prayers by using mikes thoughout day and night indiscriminately has also been denied. It is further stated that the second respondent has not received any complaint either on 04.07.2004 or thereafter from the petitioners about the alleged noise pollution by the third respondent. It is also stated that the second respondent has personally inspected the site in question, but he did not notice any such temporary constructions and the alleged prayers by the third respondent. The site is lying vacant and no such activities as alleged by the petitioners are going on in the site. In pursuance of the letter addressed by the second respondent, the Municipal Commissioner of Palkol also inspected the site in question and informed that no permission has been accorded for construction of Church in the said site and at present the site is vacant and no construction activity is going on. Thus, it is stated that the question of interference by the police does not arise and that the alleged noise pollution by the third respondent is incorrect and without any basis.

The averments of the respondents 1 and 2 in their counter-affidavit remain unrebutted, since the petitioners neither choose to file any affidavit in reply nor any material is placed before this Court to substantiate the allegations made in the affidavit.

In view of the averments in the counter-affidavit, it is clear that there is no noise pollution as such by the third respondent and therefore, the alleged inaction on the part of the respondents 1 and 2 is without any basis.

Accordingly, the writ petition is dismissed. No costs.

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17-11-2004

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To

1. The Deputy Superintendent of Police, Narayanapuram, Sambhunipet, Palakol.

2. The Inspector of Police, Palakol.
3. 2CCs to the G.P. for Home, High Court Buildings, Hyderabad (OUT).

4. 2CD copies